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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,659

04/24/2007

Joseph Grez

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08/27/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

PO BOX 3001

BRIARCLIFF MANOR, NY 10510-8001

EXAMINER

PATEL, YOGESH P

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

08/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,659	Applicant(s) GREZ, JOSEPH	
	Examiner YOGESH PATEL	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/17/2009 has been entered.

Specification

The Abstract submitted on 06/17/2009 is entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuo (2003/0077107) in view of Meyer et al. (4,236,651) in view of either Gjertsen et al. (4,783,312) or Flick et al. (6,295,427).

Kuo discloses a stem portion for a toothbrush including a stem body 31 (fig. 3b-3c and 6a-b) having an outer and inner surface which defines the longitudinal opening 31, a core member 33 configured to fit within the stem body opening. Kuo fails to disclose grooves as claimed.

Meyer teaches a core member (fig. 6) having longitudinal grooves 33a for throughflow channel. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kuo by providing multiple channel by grooves as taught by Meyer for providing fluid/dentifrice through multiple ports into the bristles of the toothbrush. Note that neither Kuo or Meyer disclose a stem body having grooves, however it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kuo by providing grooves that corresponds to groove of Meyer so that circular channel can be formed, if one desires do so. For example, if one desire to have a square longitudinal channel, then one of ordinary skill in the art at the time of the invention was made would realize to create semi square shape groove (as oppose to semi circular groove of Meyer) on the core member and the same to the stem body so that a square shaped channel could be achieved. Further, Kuo discloses fluid pathways and ribs and the stem body includes slot for locking purposes. Kuo is silent about the two extending ribs are being welded to the stem body. However, it would have been an obvious matter of design choice to one skilled in the art at the time the invention was made to connect two mechanical members by welding or other means since applicant has not disclosed that this solves any stated problem or is anything more than one of numerous shapes or configuration a

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person of ordinary skill in the art would find obvious for the purpose of providing an obliquely inclined housing. In re Dailey and Eilers, 149 USPQ 47 (1966).

In response to Applicant's arguments in the response filed on 06/17/03 that mating grooves forming a channel is not shown in either Kuo or Meyer. The Examiner points to Flick where two base members having groove are aligned to create a passage/channel (fig. 3A-3B, see elements 73, 56, 64, 66). Further, Gjertsen shows rods 21 (fig. 5) having semi oval-shaped grooves 22 which are aligned to form a channel/passage. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Kuo by providing grooves that corresponds to groove of Meyer so that circular channel can be formed, if one desires do so for the purpose of passing fluids/paste thru the channel.

Response to Arguments

Applicant's arguments filed 06/17/09 have been fully considered but they are not persuasive. Applicant arguments regarding mating grooves are addressed above. Further, the argument regarding function language (e.g. for delivery of fluids to the bristle plate), Kuo shows channel delivering fluid to the bristles in figure 4D. In addition, the statement of intended use/functional statements, they do not impose any structural limitations on the claims distinguishable over the Kuo/Meyer which is capable of being used as claimed if one so desires to do so. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior

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art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOGESH PATEL whose telephone number is (571)270-3646. The examiner can normally be reached on 8:00 to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YOGESH PATEL/
Examiner, Art Unit 3732

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732